HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 4063 OF 2006

Dated 31st July, 2006

Between:
K.V.Dev Dutt

… Petitioner

And

The Government of A.P., represented by
the Secretary, Revenue Department,
Secretariat, Hyderabad and others.

… Respondents.

ORAL ORDER:

This writ petition has been filed for a direction to the respondents 2 to 4, more particularly, respondent No.4, not to interfere with the possession and/or to remove the fencing around the land admeasuring Ac.500 forming part of Survey No.163/2, situated at Maj.3eedpur village, Medchal Taluq, Ranga Reddy District without notice to the petitioner.

It is stated in the affidavit filed in support of the writ petition that the petitioner's father, late K.R.Veera Swamy, was a Member of Legislative Assembly and a political sufferer and in recognition of his services, he was assigned government land to an extent of Ac.5.00 in Survey No. 163/2 of Majeedpur village and Patta certificate was also granted by the Tahsildar, Medchal vide No.B1/4607 dated 24.6.1982. However, when there was interference with the possession of the land assigned to late K.R.Veera Swamy, he filed suit in O.S.No.342 of 1988 for permanent injunction against 3rd respondent herein and the said suit was also decreed granting perpetual injunction in favour of the father of petitioner and the said judgment and decree has become final. After the death of the father of the petitioner, petitioner inherited the said land, as he is the only son of late K.R.Veera Swamy. Despite the assignment and the said judgment and decree, when Forest authorities claimed the land to be of Forest Land, joint inspection by the Inspector, Survey and Land Records, Ranga Reddy and the Forest Section Officer, North Range Forest Department was conducted on 30.1.1995 and report was submitted stating that on verification of the

records available in the Forest Department and Assistant Director, Survey Land Records, R.R. District, an extent of Ac.11.08 guntas, including the area sub-divided in favour of the assignee, is found to be shown in Forest Department map, whereas the said land, in fact, belongs to Government. It is further stated that in spite of the same, 4th respondent is trying to interfere with the possession of the petitioner by bulldozing the constructed area and may take possession at any time. Hence, the present writ petition.

Counter affidavit has been filed by respondents 2 to 4, wherein it is stated that patta certificate in respect of Sy. No.163/2 situated at Majeedpur village of Medchal Taluq was issued to the petitioner's father without knowledge of the Forest Department and the Tahsildar while issuing patta certificate had neither shown the boundaries of the land assigned nor given possession on the ground. The assignee had occupied the land on the roadside, which is included in Reserve Forest. The area in question was included in the Reserve Forest Block Lalgadi Malakpet and the Forest Block was notified under Section 29 of the Hyderabad Forest Act, 1355 Fasli through notification No. 212, dated 19.8.1953 of Rural Reconstruction Department and the said notification was published in the official Gazette. Therefore, the patta certificate issued by the Tahsildar, Medchal is invalid since the Tahsildar had no authority to issue the same in respect of protected forest area. The Collector, Ranga Reddy District was already addressed to cancel the patta granted by the Tahsildar, Medchal and even on verification of the records available in the Forest Department and Assistant Director of Survey and Land Records, Ranga Reddy District it is found that, including the area sub-divided in favour of the assignee, an extent of Ac.11.08 guntas Government land is under the Forest Department Map, and, therefore, it is clear that the assigned

land belongs to Forest Department.

Separate counter-affidavit has been filed by the respondent No.1, wherein, it is stated that the land to an extent of Ac.73.00 in Sy.No. 163 of Majeedpur village, Shamirepet, Mandal, Ranga Reddy District is government land, and, in relaxation of the ban imposed, an extent of Ac.5.00 in Sy.No.163/2 of Majeedpur village was assigned to Sri K.R.Veera Swamy, Ex.MLA under Political Sufferers' Quota. Patta certificate was also issued by the former Tahsildar, Medchal vide proceedings No.B1/4607/80, dated 24.6.1982. The said assignment was implemented and the name of Sri K.R.Veera Swamy was recorded in the Pahani for the year 1994-95 and Supplementary Sethwar had also been issued in the year 1995. When the District Forest Officer had informed that the land in question is a Reserve Forest land and requested for cancellation of the patta certificate, the Revenue Department in Memo No.303/Q2/83-5, dated 24.5.1983 issued instructions to the District Collector, Ranga Reddy to restore the possession of Sri K.R.Veera Swamy, Ex.M.L.A. and accordingly, the boundaries had been fixed and possession was handed over to the individual. However, to put an end to the controversy between the Revenue Department and the Forest Department in respect of the subject land, the Collector, Ranga Reddy District was requested to conduct Joint Inspection of the land by Memo No.12654/Asn.V(1)/2006-3, dated 22.7.2006 involving Forest Department, Revenue Department and Assistant Director, Survey & Land Records and assess the ground position as to whether the assignee is in occupation of Government land or Forest land. The same was ordered pursuant to a letter from the Collector based on the report of Division Forest Officer stating that the petitioner is not in possession of the land assigned to his father, but is in possession of

the land on road side on the road from Shameerpet to Medchal in the middle of the Forest block.

In this case, it is not in dispute that the assignment was made in favour of the father of the petitioner as early as on 24.6.1982, and, though the assignment was granted in the year 1982, but, however, in view of the dispute raised by the Forest Department, inspection and survey was conducted in the year 1995 and a report was prepared, operative portion of which reads thus:

> "On verification of the records available in the Forest Department and Asst. Director, Survey Land Records, R.R.Dist., it is found that including the area sub-divided in favour of the assignee to an extent of Ac.11.08 guntas, Government Land is under the Forest Department map. Thus, it is comes to for a conclusion as the said assigned area is a government Land but not belong to Forest Land. The combined sketch of R.F.Line and assignment sub-Division Line is herewith enclosed."

From the report prepared in the year 1995, it is clear that the land allotted to the petitioner is a government land but is not a forest land. But, however, in the report now submitted by the Joint Collector, it is stated that the Divisional Forest Officer informed that the petitioner is in possession of the land, which is not allotted to him, but is in possession of the piece of land on roadside on the road from Shameerpet to Medchal in the middle of the Forest block. But, whereas the petitioner asserts that he is in possession of the land assigned to his father and given possession pursuant to the orders of assignment by preparing the sketch.

Having regard to the claim of the petitioner, the report filed along with the counter stating that the petitioner is not in possession of the land which is allotted to his father, and, further joint survey already ordered, I dispose of the writ petition directing the respondents to

complete the process of inspection involving the authorities of the Forest Department, Revenue Department and Assistant Director, Survey & Land Records as per Memo No.12654/Asn.V(1)/2006-3, dated 22.7.2006, as expeditiously as possible, preferably within a period of six weeks from the date of the receipt of a copy of this order. While making such inspection, respondents are also directed to identify the boundaries with regard to land, of which, possession was given to the petitioner pursuant to grant of patta in favour of late father of the petitioner. On such demarcation of the land, which is allotted to the petitioner, boundaries shall be fixed and with such identified land, which was allotted to the petitioner's father and earmarked during the inspection, no interference shall be made by the respondents. However, it is made clear that if the petitioner is in possession of the land, which is not allotted to his father, it is open for the respondents to take steps for eviction from such land.

Subject to above direction, the writ petition is disposed of. No costs.

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31.7.2006 **(R.SUBHASH REDDY, J.)**

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